APPENDIX 1.

Exhibit "G".

Superior Court of the State of California, for the County of Los Angeles.

In the Matter of the Estate of Marcellus L. Joslyn, aka M. L. Joslyn and Marcellus Lindsey Joslyn, Deceased.

Marcellus N. Joslyn, Contestant, v. Robert D. MacDonald, et al., Defendants. No. P-471,032.

EXHIBIT "A"

TO DECLARATION OF ERNEST J. ZACK IN SUPPORT OF MOTION FOR ORDER DISMISSING WILL CONTEST AND/OR FOR OTHER RELIEF PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 2034.

Specimen areas of contest as to which Contestant had no information at the time of taking deposition of December 12, 1963, and which would have been further explored in his deposition stipulated to be taken September 1, 1965.

1. The first ground of contest (on information and belief) is that the will was not executed in the form and manner prescribed by law.

However, in his prior deposition, Contestant testified on this point as follows:
(page 422, lines 19 to 24)

"Q. Now, I have asked you a different question and I am sorry I let you go, but my question was completely different. It was: What do you point to, either on or off the face of the will,

which indicates that the two witnesses were not present at the same time?

"A. I can't say at this time."

(page 422, line 25 to page 23, line 2)

"Q. Now, what do you point to that shows that the testator did not acknowledge it to be his will in their presence when they were here?

"A. I can't say at this time."

(page 423, lines 6 to 12)

"Q. Let's take item (2):

" 'The testator at the time of subscribing or acknowledging the said instrument did not declare to the attesting witnesses that it was his will . . .'

"Now, what information do you have on that subject that you allege at that point?

"A. I can't say at this time."

(page 423, lines 13 to 26)

"Q. No. (3):

" 'The witnesses to such purported instrument did not sign the same as such witnesses at the end thereof at the testator's request or in his presence.'

"What do you have to support that allegation at this time?

"A. Only what the will itself shows right now.

"Q. What does the will show which, in your opinion, supports that allegation?

"A. Well, the will itself, isn't it?

"Q. Well, I am not here—whatever anyone else may think—to argue.

"A. I can't say at this time, to save you time, Counsel."

2. The second ground of contest (on information and belief) is that the decedent was of unsound mind, and incompetent to make the will.

However, in his prior deposition, Contestant testified on this point as follows:

(page 426, lines 23 to 25)

"Q. Do you have any evidence that he would not in fact have known that this was a will on that day?

"A. I can't give you specific evidence at this time."

(page 427, lines 11 to 17)

"I am talking about the substantial bulk of his property; would he have known on that day what it was?

"A. Well, I can't say for sure at this time.

"Q. You have no evidence that he would not have been able to do that on that day?

"A. Well, I just can't say for sure."

3. The third, fourth and fifth grounds of contest (on information and belief) are that the will was procured under undue influence of defendants Robert D. MacDonald, Lois E. Mendenhall and Mary R. Shoff Carey.

However, in his prior deposition, Contestant testified on this point as follows:

(page 433, lines 2 to 7)

"Q. Would you be able to give me any kind of a picture, any facts of any kind bearing on the proof that Mrs. Carey was a confidant of your father as to matters other than the specific matters in which they had mutual business interests?

"A. I couldn't give you any information of that,"

(page 434, lines 21 to 24)

"Can you name any business activity in which Mrs. Mendenhall had any influence over your father?

"A. I couldn't at this time give you a—pinpoint a specific instance. I would have to go to the record on that."

(page 438, line 22 to page 439, line 3)

"Q. So in substance you don't know of any activity of Mrs. Carey with reference to the will except that she is named as an alternative executrix?

"A. At this time that is all.

"Q. And that she was a witness to the will?

"A. That is right.

"Q. That is all you know that she had to do with it?

"A. That is right."

(page 439, lines 4 to 7)

"Q. What activity did Lois Mendenhall engage in with reference to the preparation of the will?

"A. I would say I don't know at this time of anything except what the will itself reveals."

(page 439, lines 17 to 22)

"Q. And you don't know whether she had any part at all in the chain of events which led to the execution of this specific document, I mean, as far as—

"A. Immediate—

"Q. —immediately prior thereto?

"A. I don't know of any at this time."

(page 440, lines 7 to 11)

"Can you tell me on what you base your allegation that Mrs. Carey dominated your father in the preparation and/or execution of the will?

"A. Well, at this time I can't give you specific instances."

(page 443, lines 11 to 16)

"Q. So that when you allege as you do, commencing on Line 17, Page 6, that your father's will was dominated by the defendants at the time he executed it, you don't have any information that would support any specific domination at that time?

"A. At this time I couldn't say."

(page 444, line 23, to page 445, line 9)

"Q. One other question. You say you don't know that they acted in consort with reference to this will. Do you know, as to the matter of preparing this will, and its execution, whether or not they all knew substantially all of the facts the others knew as to the will and what was going to be done in the will? Is that a clear question to you?

"A. I think I know what you want.

"Mr. Dolle: It is not clear to me.

"Mr. Zack: Not to you?

"The Witness: I think I know what you want.

"Mr. Zack: Read it back, please.

(The pending question was read by the reporter.)

"The Witness: The answer is I can't say at this time."

(page 446, lines 8 to 13)

"You have said above that you have no knowledge of money, of threats, or inducements, or anything having to do with the procurement of this specific will by Mrs. Mendenhall, Mr. MacDonald and Mrs. Carey; is that correct?

"A. At this time I suppose it is right."

(page 446, lines 19 to 22)

"Will you tell me what support you have for the allegation that Mrs. Carey would unduly profit from the estate if the will is admitted to probate?

"A. Well, I can't say right now."

(page 459, lines 9 to 16)

"Q. And, therefore, you have no information on the allegation, on Line 25:

"'. . . that in pursuance of said conspiracy said conspirators obtained from decedent the aforesaid purported Will'?

"You don't have any information on that subject?

"A. Only by implication of various things, various things."

(page 460, lines 8 to 23)

"Q. And you say:

"'That said defendants'—commencing on Line 4, Page 9—'Robert D. MacDonald, Lois E. Mendenhall, and Mary R. Shoff Carey, and each of them, have been and are guilty of oppression, fraud and malice, express and implied . . .'

"Now, will you tell me what facts or statements of Mrs. Carey indicate that she was guilty of oppression, fraud or malice?

"A. I don't know of any at this time.

"Q. You don't know of any express oppression, fraud or malice on her part, do you?

"A. No, not at this time.

"Q. You don't know of any implied oppression or malice on her part?

"A. Not at this time."

(page 462, lines 20 to 26)

"Q. You have not answered the question, though. The question is: You have alleged here that these parties are guilty of oppression, fraud and malice, and efforts to cheat and defraud you and your brothers and sister, with reference to this estate. I am asking you, is that allegation true that you make there at the top of Page 9.

"A. I can't say at this time."

(page 465, lines 16 to 19)

"Q. Do you know anything specific which would tend to indicate that Mrs. Mendenhall got her bequest as a result of this conspiracy?

"A. I don't know of anything specific at this time."

4. The sixth ground of contest (on information and belief) is that the will was obtained by fraudulent representations of Robert D. MacDonald, Lois E. Mendenhall and Mary R. Shoff Carey made to the decedent.

However, in his prior deposition, Contestant testified on this point as follows:

(page 471, lines 2 to 9)

"Q. All right. Now, as to Mr. MacDonald, what false representations, false and fraudulent

representations, did he make to your father for the purpose of poisoning his mind?

"A. I don't know of any at this time.

"Q. You don't know of any?

"A. At this time.

"Q. Don't you think that is a rather serious allegation to make without any evidence, Mr. Joslyn?"

(page 474, lines 2 to 8)

"Q. Now getting back to this contest, can you tell me any false or fraudulent representations made to the decedent by Lois Mendenhall?

"A. I don't know of any at this time.

"Q. Do you know of any false or fraudulent representations made to the decedent by Mary R. Shoff Carey?

"A. I don't know of any at this time."

(page 474, lines 9 to 17)

"Q. Do you know from any source that one, or all, or any combination of these same individuals on Line 24 of Page 9 had stated to the decedent that they alone were interested in his welfare?

"A. I can't say that I do at this time.

"Q. Do you know anything said by Mr. MacDonald, Mrs. Mendenhall, or Mrs. Carey, or any combination of them, to the effect that the decedent's children bore no love for him?

"A. I don't know of any at this time."

(page 474, line 25 to page 475, line 3)

"Q. Well, you alleged on information and belief, as is indicated on Line 22, that this was true. On what did you base these allegations?

"A. I followed the advice of my counsel and his pleading, and that is all I know about it."

(page 476, lines 4 to 8)

"Q. Then, as a whole this Sixth Cause of Action, fraudulent representations, there is really nothing that you know of to support that ground of contest, is there?

"A. At this time I don't know of any support for it."

(page 476, line 21 to page 477, line 6)

"Do you have any information as to their being any reliance on any such representations by Mr. MacDonald, Mrs. Mendenhall, or Mrs. Carey?

"A. I don't recall any specific things about it, but naturally they were in a position of confidential relationship to the decedent, and he had in the past, and I believe did then, relied considerably on their direction and advice.

"Q. But as far as getting down to any specific allegation of any specific statement by these people to the effect set forth in this Sixth Ground of Contest, you don't know anything about that?

"A. At this time I can't say I do."

(page 477, lines 9 to 17)

"Q. And you allege in Line 12 of Page 10 that these allegations were relied on by the decedent and that they controlled the mind of decedent. Do you have any evidence to show that such allegations controlled the mind of the decedent in making this will?

"A. Not except the general trend of my evidence.

"Q. Just the general trend, but nothing specific, is that right?

"A. Nothing specific as yet, that I can recall now."

I certify (or declare), under penalty of perjury, that the foregoing are true and correct copies of the questions and answers, and proceedings, in the deposition of Contestant, Marcellus N. Joslyn, taken September 12th to 18th, 1963.

Executed on September 3, 1965.

Kindel & Anderson
By Ernest J. Zack
Attorneys for Defendants

APPENDIX 2.

Findings of Fact, Conclusions of Law and Order Dismissing Amended Will Contest After Probate.